

**COMMODITY FUTURES TRADING COMMISSION (CFTC)****Statement of Regulatory Priorities**

The regulatory objectives of the Commodity Futures Trading Commission are to ensure that the commodity futures and option markets remain competitive and respond to underlying supply and demand factors by detecting and preventing threats of price manipulation, abusive trading practices, fraud, and other market disruptions, safeguarding the financial soundness of those markets, and providing for appropriate customer protection of those who trade on those markets. Futures markets that are free of manipulation and other anticompetitive forces can most effectively perform their vital economic functions of price discovery and risk transfer. To these ends, the Commission's objectives include protection of customer funds, ensuring the financial integrity of regulated intermediaries, and protection of customers from abusive trade practices.

**CFTC****PROPOSED RULE STAGE****153. PROHIBITION ON VOTING BY INTERESTED MEMBERS****Priority:**

Other Significant

**Legal Authority:**

7 USC 7a(17)

**CFR Citation:**

17 CFR 1.67

**Legal Deadline:**

None

**Abstract:**

The regulation will implement the provisions of section 217 of the Futures Trading Practices Act of 1992, which require contract markets to adopt rules to avoid conflicts of interest in deliberations and voting by members of the governing board and disciplinary and other oversight committees. The rulemaking will define the relationships between a named party in interest and a member of the governing board or committee that would require abstention from deliberations and voting. The rulemaking will also provide guidelines on situations that would require a member to abstain

from voting on a significant action because of a substantial financial interest in the outcome of the vote, based on positions held personally or at an affiliated firm, as well as on other matters addressed by the statute. The action potentially impacts the selection and composition of contract market governing boards and committees.

**Statement of Need:**

The regulation will implement the provisions of section 217 of the Futures Trading Practices Act of 1992, which require contract markets to adopt rules to avoid conflicts of interest in deliberations and voting by members of the governing board and disciplinary and other oversight committees. The rulemaking will define the relationships between a named party in interest and a member of the governing board or committee that would require abstention from deliberations and voting. The rulemaking also will provide guidelines on situations that would require a member to abstain from voting on a significant action because of a substantial financial interest in the outcome of the vote, based on positions held personally or at an affiliated firm, as well as on other matters addressed by the statute. The action potentially impacts the selection and composition of contract market governing boards and committees. This rulemaking will further the regulatory objective of oversight of contract markets so as to assure that the markets remain open, competitive, and efficient.

**Alternatives:**

These rules are required by statutory mandate set forth in the Futures Trading Practices Act of 1992. The Commission intends to pursue this rulemaking to achieve rules that will fulfill this statutory mandate in a cost-effective manner.

**Anticipated Costs and Benefits:**

As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations in order to ensure that the benefits of its regulations outweigh the costs. To date, we know of no Commission regulation that adversely affected small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601-611 (1988).

**Timetable:**

Action	Date	FR Cite
NPRM	10/00/95	

Action	Date	FR Cite
NPRM Comment Period End	12/00/95	
Final Action	06/00/96	

**Small Entities Affected:**

None

**Government Levels Affected:**

None

**Agency Contact:**

David P. Van Wagner  
Special Counsel  
Division of Trading and Markets  
Commodity Futures Trading Commission  
1155 21st Street NW.  
Washington, DC 20581  
Phone: 202 418-5481

RIN: 3038-AB03

**CFTC****FINAL RULE STAGE****154. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS****Priority:**

Other Significant

**Legal Authority:**

7 USC 6f(c)

**CFR Citation:**

17 CFR 1.14; 17 CFR 1.15

**Legal Deadline:**

None

**Abstract:**

On December 21, 1994, the Commission adopted, as phase 1 of the risk assessment rulemaking, final rules with respect to maintenance and filing of organizational charts, risk management policies, procedures and systems, and consolidated and consolidating financial statements. It also proposed "trigger" event reporting in the event of a 20 percent decline in a futures commission merchant's (FCM's) adjusted net capital. The Commission deferred action on the balance of the proposed rules, which related to reporting of position data and other data concerning FCM affiliates. With respect to the second phase of the rulemaking process, the Commission's staff will continue to work with other financial regulators, particularly the Securities and Exchange Commission, to design a reporting framework that is harmonized across regulatory structures and, to the extent possible, reflective

of a consensus as to which data are most meaningful to regulators and can be provided without undue burden.

**Statement of Need:**

These rules, authorized by Congress in section 229 of the Futures Trading Practices Act of 1992, Public Law 102-546, 106 Stat. 3590 (1992), are intended to enhance the Commission's financial surveillance program by providing the Commission with access to information concerning the activities of affiliates of registered FCMs whose activities are reasonably likely to have a material impact on the financial or operational condition of the FCM. These adopted rules require registered FCMs to maintain certain records concerning the financial activities of such material affiliates, to file certain information with the Commission on an annual basis, and to provide additional information to the Commission upon the occurrence of specified events. The records required to be maintained and the information required to be filed routinely include an organizational chart, risk management policies, and consolidated and consolidating financial statements. In addition, notice of a 20 percent decline in an FCM's adjusted net capital is required. Proposals related to securities and commodity position data, financial instrument holdings, information regarding positions of affiliates carried by FCM's, as well as certain other "trigger" events for reporting purposes have been deferred.

The Commission views these rules as necessary to fulfill its objectives of protecting customer funds and ensuring the financial integrity of regulated intermediaries. The rules are intended

to enhance the safeguards of customer funds by providing the Commission with increased access to material information concerning the operations of affiliates of the FCM whose activities may expose the FCM to financial or operational risks. The new statutory authority under which these rules were adopted recognizes that, as illustrated by the experience of the CFTC and other regulators with several recent failures of regulated brokerage firms, the operations of regulated FCMs may be materially affected by, and only understood in conjunction with, the activities of affiliated entities, many of which may be unregulated. Concomitantly, the effectiveness of ongoing financial oversight programs may depend upon access to information concerning risks to the FCM created by affiliate activity, and the efficacy of regulatory responses to financial problems at the regulated entity may be enhanced by access to information concerning relevant affiliate activity.

**Alternatives:**

The proposals provide alternative filing options for an FCM that is also a securities broker-dealer, or that is part of a holding company with affiliates subject to the oversight of a Federal banking agency, State insurance commission, or a foreign regulator with which the Commission has an information-sharing agreement to avoid duplicative reporting burdens. The staff has also consulted extensively with other financial regulators, and continues to do so, to explore the extent to which they may share with the Commission on a confidential basis relevant risk assessment information concerning entities subject to their

supervision so as to reduce duplicative requirements.

**Anticipated Costs and Benefits:**

As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations in order to ensure that the benefits of its regulations outweigh the costs. To date, we know of no Commission regulation that adversely affected small entities as defined under the Regulatory Flexibility Act, 5 USC 601-611 (1988).

**Timetable:**

Action	Date	FR Cite
NPRM	03/01/94	59 FR 9689
NPRM Comment Period End	07/01/94	
Final Action	12/31/95	
<b>Risk Assessment for Holding Company Systems</b>		
Phase I	12/28/94	(59 FR 66674)
Phase II	12/31/95	

**Small Entities Affected:**

None

**Government Levels Affected:**

None

**Agency Contact:**

Lawrence T. Eckert  
Attorney Advisor  
Division of Trading and Markets  
Commodity Futures Trading Commission  
1155 21st Street NW.  
Washington, DC 20581  
Phone: 202 418-5444

**RIN:** 3038-AB01

**BILLING CODE** 6351-01-F